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R 151900Z MAY 75
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SECDEF WASHDC
INFO AMEMBASSY BONN
AMEMBASSY LONDON
USDEL MBFR VIENNA
USNMR SHAPE
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S E C R E T SECTION 1 OF 4 USNATO 2741

E.O. 11652: XGDS-1
TAGS: PARM NATO

SUBJ: MBFR: FORM OF AGREEMENTS: SPC MEETING MAY 15

REF: USNATO 2552 DTG 071900Z MAY 75

1. SPC ON MAY 15 TOOK ITS FIRST LOOK AT FRG PAPER ON FORM OF MBFR AGREEMENTS.

2. NETHERLANDS REP (MEESMAN) STATED THAT HIS AUTHORITIES WANT TO STUDY VERY CAREFULLY THIS QUESTION, AND HE DID NOT EXPECT MUCH GUIDANCE UNTIL MID-JUNE. HE NOTED, AS A PRELIMINARY VIEW, THAT SINCE MBFR AIMS AT UNDIMINISHED SECURITY FOR ALL PARTICIPANTS, HIS AUTHORITIES MAY BE SOMEWHAT NEGATIVE ABOUTPARA 8 IN THE FRG PAPER WHICH WOULD LIMIT THE ROLE OF THE NON-U.S. DIRECT PARTICIPANTS IN THE AGREEMENT.

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3. CANADIAN REP (BARTLEMAN) INTRODUCED A CANADIAN PAPER ON THE NATURE AND FORM OF MBFR AGREEMENTS, WHICH HE STATED HAD BEEN PREPARED PRIOR TO RECEIPT OF THE FRG PAPER. HE STRESSED THAT CANADA SAW THIS AS A POSSIBLE CONTRIBUTION TO THE ALLIED

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DEBATE, AND WAS NOT WEDDED TO ANY PARTICULAR CONCLUSION.
TEXT FOLLOWS AT END OF THIS MESSAGE.

4. SPC WILL NEXT CONSIDER FORM OF AGREEMENTS ON THURSDAY, JUNE 5.

5. BEGIN TEXT
PRELIMINARY CANADIAN COMMENTS ON NATURE AND FORM OF MBFR AGREEMENTS
WE OUTLINE BELOW SOME POSSIBLE SCENARIOS FOR THE FORM WHICH THE MBFR AGREEMENTS MIGHT TAKE. SINCE THE SUBSTANCE OF THESE AGREEMENTS IS NOT KNOWN, THESE COMMENTS ARE NECESSARILY SPECULATIVE IN NATURE AND ONLY DEAL WITH THE FIRST PHASE AGREEMENTS.
2. SUCH THINKING AS HAS BEEN DONE UP TO THE PRESENT TIME HAS TENDED TO FOCUS ON A FIRST PHASE WHICH WOULD TAKE INTO CONSIDERATION THE FOLLOWING ELEMENTS:
(A) IN THE FIRST PLACE IT WOULD DEFINE, IN NATO THINKING, THE GOAL OF A COMMON CEILING ON THE LEVEL OF FORCES WHICH EACH SIDE COULD MAINTAIN IN THE AREA. THE COLLECTIVE CEILING FEATURE WOULD BE EXPRESSLY AGREED IN THE FORM OF A MULTI-LATERAL AGREEMENT WHICH WOULD BE SIGNED AND RATIFIED BY ALL THE DIRECT PARTICIPANTS. SINCE NOT ALL NATO COUNTRIES WOULD BE PARTICIPANTS, IT IS NOT ENVISAGED THAT NATO OR THE WPO, AS ORGANIZATIONS, WOULD BE SIGNATORIES.
(B) AT THE SAME TIME, NATO'S APPROACH DOES NOT ENVISAGE EQUAL OR SIMULTANEOUS COMMITMENTS FOR SPECIFIC REDUCTIONS BY ALL THE DIRECT PARTICIPANTS BUT IS CONCERNED, IN THE FIRST PHASE, ONLY WITH REDUCTIONS BY THE U.S.A. AND THE U.S.S.R. THE SAME TWO COUNTRIES WOULD ALSO BE INVOLVED IN THE STABILIZING MEASURES COMPONENT (MILITARY MOVEMENTS, EXERCISES AND ROTATION) OF THE NEGOTIATIONS. FURTHER, NATO'S PROPOSAL HAS THE EFFECT OF CREATING SUB-CEILINGS ON THE LEVEL OF SOVIET AND U.S.A. FORCES IN THE AREA OF REDUCTIONS WHICH WOULD BE EMBODIED IN THE FIRST PHASE AGREEMENT(S) IN CONTRAST TO THE INTENT TO AVOID NATIONAL SUB-CEILINGS FOR ALL THE OTHER DIRECT PARTICIPANTS. THE U.S.A. MAY ALSO BE THE ONLY NATO COUNTRY
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TO REDUCE AIR MANPOWER IN A FIRST PHASE AGREEMENT BUT OTHER ALLIES ARE ANXIOUS TO PREVENT ANY PRECEDENT EFFECT FOR RE-DUCTION OF THEIR OWN AIR MANPOWER. THERE MAY THUS BE ONE, TWO OR MORE U.S.A.-U.S.S.R. BILATERAL PROTOCOLS TO THE MULTI-LATERAL AGREEMENT. THIS PRESENTS NO LEGAL PROBLEM. THE U.S.A.-U.S.S.R. PROTOCOL OR PROTOCOLS CAN BE TIED TO THE MULTILATERAL AGREEMENT ON MBFR AS CLOSELY AS IS DESIRED; IT IS MERELY A MATTER OF INCORPORATING SUITABLE WORDING.
(C) IT IS CLEAR, HOWEVER, THAT THE OTHER DIRECT PARTICIPANTS ARE GOING TO HAVE "MAJOR AND SPECIFIC COMMITMENTS" THEM-SELVES IN SOME FIRST PHASE AGREEMENT IF THEIR OWN FINAL OBJECTIVES ARE TO BE REALIZED. THESE INCLUDE: A COMMITMENT TO AGREE, IN A SECOND PHASE OF THE NEGOTIATIONS, TO REDUCE

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THEIR OWN GROUND FORCES AND, IN THE INTERIM, TO ACCEPT COMMIT-
MENTS NOT TO INCREASE THEIR GROUND AND AIR FORCES BETWEEN
THE PHASES OF NEGOTIATIONS IN ORDER TO PREVENT CIRCUMVENTION
OF THE FIRST PHASE U.S.A./SOVIET REDUCTIONS. THESE COMMIT-
MENTS HAVE BEEN TENTATIVELY ACCEPTED ON THE NATO SIDE AS LONG
AS THEY WERE CONDITIONAL UPON THE ATTAINMENT OF THE COMMON
CEILING AND ITS "COLLECTIVE" CEILING FEATURE.

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3. THE FOREGOING SUGGESTS THAT THE FIRST PHASE AGREEMENTS
MIGHT INCLUDE THE FOLLOWING:
(A) A MULTILATERAL AGREEMENT SIGNED AND RATIFIED BY ALL THE
DIRECT PARTICIPANTS WHICH WOULD INCLUDE:
(I) THE FINAL GOAL OF A COMMON CEILING IN THE LEVEL OF
FORCES EACH SIDE CAN MAINTAIN IN THE AREA WITH THE COLLECTIVE
CEILING FEATURE (UNDER WHICH THE MEMBERS OF EACH SIDE WOULD
HAVE THE COLLECTIVE FREEDOM TO ADJUST THE SIZE OF THEIR FORCES
BY THEIR OWN INTERNAL ALLIANCE ARRANGEMENTS) EXPRESSLY
SPELLED OUT IN SOME FASHION;
(II) GENERAL COMMITMENTS BY THE U.S.A. AND U.S.S.R. TO REDUCE
THEIR FORCES IN THE AREA OF REDUCTIONS AS PART OF A FIRST
PHASE AGREEMENT. IF THE U.S.A. AND U.S.S.R. SHOULD ALSO GO
ON TO COMMIT THEMSELVES TO FURTHER REDUCTIONS IN A SECOND
PHASE OF NEGOTIATIONS, WE THINK THIS LATTER COMMITMENT COULD
WELL BE EMBODIED IN A SEPARATE AGREEMENT WHICH MIGHT CONCLUDE
THE FIRST PHASE OF NEGOTIATIONS.
(B) A BILATERAL PROTOCOL SIGNED AND RATIFIED BY THE U.S.A.

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AND THE U.S.S.R. WHICH WOULD REFER TO THE MULTILATERAL AGREEMENT AND THEN SPELL OUT THE DETAILS OF THE FIRST PHASE REDUCTIONS AND IMPLEMENTATION MEASURES.
(C) IN THE SAME INSTRUMENT, OR IN FURTHER U.S.A.-U.S.S.R. PROTOCOLS, COMMITMENTS TO STABILIZING MEASURES COULD BE INCLUDED. VERIFICATION AND NON-CIRCUMVENTION PROVISIONS COULD ALSO BE INCLUDED IN SUCH PROTOCOLS.
(D) IN THIS FIRST PHASE, THERE COULD BE PROTOCOLS OR INDIVIDUAL DECLARATIONS SIGNED AND RATIFIED BY THE OTHER DIRECT PARTICIPANTS IN WHICH THEY WOULD COMMIT THEMSELVES TO BE INCLUDED IN FURTHER REDUCTIONS TO THE COMMON CEILING AS AN OUTCOME OF THE SECOND PHASE NEGOTIATIONS. IN THE INTERIM PERIOD THEY WOULD COMMIT THEMSELVES NOT TO INCREASE THEIR GROUND AND AIR FORCES.
THIS COULD BE ACCOMPLISHED BY A SERIES OF INDIVIDUAL DECLARATIONS REFERRING TO THE MULTILATERAL AGREEMENT, AND THE U.S.A.-U.S.S.R. PROTOCL/PROTOCOLS BY EITHER A SINGLE PROTOCOL SIGNED BY ALL THE OTHER DIRECT PARTICIPANTS OR BY A SERIES OF INDIVIDUAL PROTOCOLS OR DECLARATIONS. THE FORM IS NOT SIGNIFICANT. IN ADDITION ONE COULD USE THE DEVICE OF "THIRD STATES" WHICH ARE NAMED IN THE U.S.A.-U.S.S.R. AGREEMENT AS ACCEPTING CERTAIN OBLIGATIONS. BY EXPRESSLY ACCEPTING THOSE OBLIGATIONS THEOTHER DIRECT PARTICIPANTS COULD BIND THEMSELVES TO CERTAIN OBLIGATIONS PARELLELING THOSE UNDERTAKEN BY THE U.S.A. AND THE U.S.S.R. IN OTHER WORDS, THERE ARE A VARIETY OF WAYS IN WHICH, FOLLOWING A U.S.A.-U.S.S.R. BILATERAL AGREEMENT THE OTHER DIRECT PARTICIPANTS COULD ACCEPT CERTAIN OBLIGATIONS.
(E) THERE MAY BE SOME ADVANTAGE IN COMPLETING THIS SERIES OF AGREEMENTS (A MULTILATERAL AGREEMENT AND A SERIES OF PROTOCOLS, ETC.) BY SOME KIND OF FINAL DOCUMENT WHICH WRAPS UP THE FIRST PHASE NEGOTIATIONS AND WOULD BE SIGNED AND RATIFIED BY ALL THE DIRECT PARTICIPATNS. IF THIS WERE THOUGHT DESIRABLE, COMMITMENTS REGARDING FURTHER REDUCTIONS IN THE SECOND PHASE OF NEGOTIATIONS COULD BE INCLUDED IN THIS FINAL FIRST PHASE AGREEMENT. IN THIS AGREEMENT CONCLUDING THE FIRST PHASE OF NEGOTIATIONS THE U.S.A. AND THE U.S.S.R. WOULD COMMIT THEMSELVES TO FURTHER REDUCTIONS INA SECOND PHASE OF NEGOTIATIONS. THE OTHER DIRECT PARTICIPATNS WOULD COMMIT THEMSLEVES TO BE INCLUDED N FURTHER REDUTIONS TO THE COMMON CEILING AS AN OUTCOME OF THE SECOND PHASE NEGOTIATIONS.

WHILE WE ASSUMED THIS FINAL DOCUMENT, WHICH COULD BE TERMED THE ACT OF THE MBFR CONFERENCE, WOULD BE A BINDING AGREEMENT GOVERNMED BY INTERNATIONAL LAW, IT WOULD EQUALLY BE POSSIBLE TO FRAME IT SIMPLY AS A DECLARATION OF INTENTION, DEPENDENT ON THE OUTCOME OF THE SECOND PHASE NEGOTIATIONS. A SAMPLE

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AGREEMENT OF A BINDING ACT (WHICH FOLLOWED THE CONCLUSION OF A SERIES OF AGREEMENTS - THE CEASEFIRE AGREEMENT AND PROTOCOLS ON VIETNAM) IS THE MARCH 2, 1973, ACT OF THE INTERNATIONAL CONFERENCE ON VIET NAM (COPY ATTACHED). THIS IS INTENDED AS MERELY ILLUSTRATIVE OF THE TYPE OF INSTRUMENT WHICH COULD BE EMPLOYED TOP PUT THE CAP ON THE SERIES OF FIRST PHASE AGREEMENTS AND LAY THE GROUNDWORK FOR THE SECOND PHASE OF NEGOTIATIONS.

CONCLUSIONS

4. WHILE FROM A LEGAL POINT OF VIEW WE PREFER A MULTILATERAL AGREEMENT, A U.S.A.-U.S.S.R. PROTOCOL OR PROTOCOLS, AND A SERIES OF INDIVIDUAL DECLARATIONS OR PROTOCOLS BY THE OTHER DIRECT PARTICIPANTS, WE APPRECIATE THAT THIS IS, AT THE MOMENT, A HIGHLY SPECULATIVE EXERCISE. IT IS DIFFICULT TO MAKE SUGGESTIONS AS TO THE NATURE AND FORM OF LEGAL DOCUMENTS WHEN NO LANGUAGE HAS BEEN PUT UPON THE TABLE.

5. SO FAR AS CANADA IS CONCERNED IT WOULD SEEM THAT PROVIDED THERE IS A BINDING U.S.A.-U.S.S.R. AGREEMENT, IT IS A MATTER FOR POLITICAL JUDGEMENT WHAT WE COULD ACCEPT BY WAY OF ADDITIONAL INSTRUMENTS. WE MIGHT WANT BINDING LEGAL COMMITMENTS, EXPRESSED THROUGH SOME FORM OF MULTILATERAL AGREEMENT AND PROTOCOLS, OR WE MIGHT BE PREPARED TO ACCEPT INSTRUMENTS EMANATING FROM THE OTHER DIRECT PARTICIPANTS WHICH ARE SOMETHING LESS THAN BINDING TREATY INSTRUMENTS GOVERNED BY INTERNATIONAL LAW. SUCH INSTRUMENTS, WHICH ARE OFTEN TERMED DECLARATIONS, WOULD BE EVIDENCE OF STATE INTENTIONS BUT WOULD NOT EMBODY COMMITMENTS IN INTERNATIONAL LAW.

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ACT OF THE INTERNATIONAL CONFERENCE ON VIET-NAM
THE GOVERNMENT OF CANADA;
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA;
THE GOVERNMENT OF THE UNITED STATES OF AMERICA;
THE GOVERNMENTOF THE FRENCH REPUBLIC;
THE PROVISIONAL REVOLUTIONARY GOVERNMENT OF THE REPUBLIC
OF SOUTH VIET-NAM;
THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC;
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA;
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF POLAND;
THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF VIET-MAN; AND
THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS;
IN THE PRESENCE OF THE SECRETARY-GENERAL OF THE UNITED NATIONS;
WITH A VIEW TO ACKNOWLEDGING THE SIGNED AGREEMENTS;
GUARANTEEING THE ENDING OF THE WAR, THE MAINTENANCE OF PEACE
IN VIET-NAM, THE RESPECT OFTHE VIETNAMESE PEOPLE'S FUNDA-
MENTAL NATIONAL RIGHTS, AND THE SOUTH VIETNAMESE PEOPLE'S
RIGHT TO SELF-DETERMINATION; AND CONTRIBUTION TO AND
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GUARANTEEING PEACE IN INDOCHINA;
HAVE AGREED ON THE FOLLOWING PROVISIONS, AND UNDERTAKE TO
RESPECT AND IMPLEMENT THEM:
ARTICLE 1
THE PARTIES TO THIS ACT SOLEMNLY ACKNOWLEDGE, EXPRESS THEIR
APPROVAL OF, AND SUPPORT THE PARIS AGREEMENT ON EDNING THE
WAR AND RESTORING PEACE IN VIET-NAM SIGNED IN PARIS ON
JANUARY 2, 1973, AND THE FOUR PROTOCOLS TO THE AGREEMENT SIGNED
ON THE SAME DATE (HEREINAFTER REFERRED TO RESPECTIVELY AS
THE AGREEMENT AND THE PROTOCOLS).
ARTICLE 2
THE AGREEMENT RESPONDS TO THE ASPIRATIONS AND FUNDAMENTAL
NATIONAL RIGHTS OF THE VIETNAMES PEOPLE, I.E., THE INDPENDENCE,
SOVEREIGNTY, UNITY AND TERRITORIAL INTEGRITY OF VIET-NAM, TO
THE RIGHT OF THE SOUTH VIETNAMESE PEOPLE TO SELF-DETER-
MINATION, AND TO THE EARNEST DESIRE FOR PEACE SHARED BY ALL
COUNTRIES IN THE WORLD. THE AGREEMENT CONSITITUTES A MAJOR
CONTRIBUTION TO PEACE, SELF-DETERMINATION, NATIONAL INDE-
PENDENE, AND THE IMPROVEMENT OF RELATIONS AMONG COUNTRIES.
THE AGREEMENT AND THE PROTOCOLS SHOULD BE STRICTLY RESPECTED
AND SCRUPULOUSLY IMPLEMENTED.
ARTICLE 3
THE PARTIES TO THIS ACT SOLEMNLY ACKNOWLEDGE THE COMMITMENTS
BY THE PARTIES TO THE AGREEMENT AND THE PROTOCOLS TO STRICTLY
RESPECT AND SCRUPULOUSLY IMPLEMENT THE AGREEMENT AND THE
PROTOCOLS.
ARTICLE 4
THE PARTIES TO THIS ACT SOLEMNLY RECOGNIZE AND STRICTLY
RESPECT THE FNDAMENTAL NATIONAL RIGHTS OF THE VIETNAMESE
PEOPLE, I.E., THE INDEPENDENCE, SOVERIGNTY, UNITY, AND

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TERRITORIAL INTEGRITY OF VIET-NAM, AS WELL AS THE RIGHTOF
THE SOUTH VIETNAMESE PEOPLE TO SELF-DETERMINATION. THE PARTIES
TO THIS ACT SHALL STRICLTY RESPECT THE AGREEMENT AND THE
PROTOCOLS BY REFRAINING FROM ANY ACTION AT VARIANCE WITH
THEIR PROVISIONS.
ARTICLE 5
FOR THE SAKE OF A DURABLE PEACE IN VIET-NAM, THE PARTIES
TO THIS ACT CALL ON ALL COUNTRIES TO STRICLTY RESPECT THE
FUNDAMENTAL NATIONAL RIGHTS OF THE VIETNAMESE PEOPLE, I.E.
THE INDEPENDENCE, SOVEREIGNTY, UNITY AND TERRITORIAL INTEGRITY
OF VIET-NAM AND THE RIGHT OF THE SOUTH VIETNAMESE PEOPLE
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TO SELF-DETERMINATION AND TO STRICTLY RESPECT THE AGREEMENT
AND THE PROTOCOLS BY REFRAINING FROM ANY ACTION AT VARIANCE
WITH THEIR PROVISIONS.
ARTICLE 6
(A) THE FOUR PARTIES TO THE AGREEMENT OR THE TWO SOUTH
VIETNAMESE PARTIES MAY, EITHER INDIVIDUALLY OR THROUGH JOINT
ACTION, INFORM THE OTHERPARTIES TO THIS ACT ABOUT THE IMPLE-
MENTATION OF THE AGREEMENT AND THE PROTOCLS. SINCE THE
REPORTS AND VIEWS SUBMITTED BY THE INTERNATIONAL COMMISSION
OF CONTROL AND SUPERVISION CONCERNING THE CONTROL AND SUPER-
VISION OF THE IMPLEMENTATION OF THOSE PROVISIONS OF THE
AGREEMENT AND THE PROTOCOLS WHICH ARE WITHIN THE TASKS OF THE
COMMISSION WILL BE SENT TO EITHER THE FOUR PARTIES SIGNATORY
TO THE AGREEMENT OR TO THE TWO SOUTH VIETNAMESE PARTIES,
THOSE PARTIES SHALL BE RESPONSIBLE, EITHER INDIVIDUALLY OR
THROUGH JOINT ACTION, FOR FORWARDING THEM PROMPTLY TO THE
OTHER PARTIES TO THIS ACT.
(B) THE FOUR PARTIES TO THE AGREEMENT OR THE TWO SOUTH
VIETNAMESE PARTIES SHALL ALSO, EITHER INDIVIDUALLY OR THROUGH
JOINT ACTION, FORWARD THIS INFORMATION AND THESE REPORTS
AND VIEWS TO THE OTHER PARTICIPANT IN THE INTERNATIONAL
CONFERENCE ON VIET-NAM FOR HIS INFORMATION.

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ARTICLE 7
(A) IN THE EVENT OF A VIOLATION OF THE AGREEMENT OR THE PROTOCOLS WHICH THREATENS THE PEACE, THE INDEPENDENCE, SOVEREIGNTY, UNITY OR TERRITORIAL INTEGRITY OF VIET-NAM, OR THE RIGHT OF THE SOUTH VIETNAMESE PEOPLE TO SELF-DETERMINATION, THE PARTIES SIGNATORY TO THE AGREEMENT AND THE PROTOCOLS SHALL, EITHER INDIVIDUALLY OR JOINTLY, CONSULT WITH THE OTHER PARTIES TO THIS ACT WITH A VIEW TO DETERMINING NECESSARY REMEDIAL MEASURES.
(B) THE INTERNATIONAL CONFERENCE ON VIET-NAM SHALL BE RECONVENED UPON A JOINT REQUEST BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF VIET-NAM ON BEHALF OF THE PARTIES SIGNATORY TO THE AGREEMENT OR UPON A REQUEST B SIX OR MOREOF THE PARTIES TO THIS ACT.
ARTICLE 8
WITH A VIEW TO CONTRIBUTION TO AND GUARANTEEING PEACE, THE PARTIES TO THIS ACT ACKNOWLEDGE THE COMMITMENT OF THE PARTIES
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AGREEMENT TO RESPECT THE INDEPENDENCE, SOVEREIGNTY, UNITY, TERRITORIAL INTEGRITY, AND NEUTRALITY OF CAMBODIA AND LAOS AS STIPULATED IN THE AGREEMENT, AGREE ALSO TO RESPECT THEM AND TO REFRAIN FROM ANY ACTION AT VARIANCE WITH THEM, AND CALL ON OTHER COUNTRIES TO DO THE SAME.
ARTICLE 9
THIS ACT SHALL ENTER INTO FORCE UPON SIGNATURE BY PLENIPOTENTIARY REPRESENTATIVES OF ALL TWELVE PARTIES AND SHALL BE STRICTLY IMPLEMENTED BY ALL THE PARTIES. SIGNATURE OF THIS ACT DOES NOT CONSTITUTE RECOGNITION OF ANY PARTY IN ANY CASE IN WHICH IT HAS NOT PREVIOSLY BEEN ACCORDED.
DONE IN TWELVE COPIES IN PARIS THIS SECOND DAY OF MARCH, ONE THOUSAND NINE HUNDRED AND SEVENTY-THREE, IN ENGLISH, VIETNAMESE, CHINESE, FRENCH AND RUSSIAN. ALL TEXTS ARE EQUALLY AUTHENTIC.

END TEXT. BRUCE

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